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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,142	01/03/2002	Joseph M. Kelly		9378

7590 04/13/2006

Mr. Michael J. Behan
Harbor Resource Managment Corp.
124 Half Mile Road
Suite 200
Red Bank, NJ 07701

EXAMINER

HRUSKOCI, PETER A

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 04/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/040,142

Applicant(s)

KELLY ET AL.

Examiner

Peter A. Hruskoci

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Period for Reply
-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLaughlin et al. in view of Allen et al. 6,428,705. McLaughlin et al. disclose (see col. 3 line 46 through col. 4 line 62) a method of treating dredged material substantially as claimed. The claims differ from McLaughlin et al. by reciting a step for subjecting the dredged material to an oxidation process. Allen et al. disclose (see col. 3 line 52 through col. 7 line 17) that it is known in the art to add oxidizing agents to dredged material to aid in removing metals and organic materials by filtration. It would have been obvious to one skilled in the art to modify the method of McLaughlin et al. by utilizing the recited oxidation process in view of the teachings of Allen et al., to aid in removing metals and organic material from the dredged material. The specific oxidizing agent utilized would have been an obvious matter of process optimization to one skilled in the art, depending on the specific dredged material treated and results desired, absent a sufficient showing of unexpected results. With regard to claim 9, it is submitted that the polymeric coagulants and flocculants disclosed in Allen et al. are considered patentably indistinguishable from the recited polyelectrolyte.

Applicants argue that Allen et al. teach a process for removing metals and other inorganic and organic contaminants from large volumes of wastewater in a single pass, and no basis has been set forth as to why one skilled in the art would be motivated to make the proposed combination with McLaughlin et al.. It is submitted that Allen et al. is not limited to removing

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metals and contaminants from large volumes of wastewater, and includes the treatment of wastewater feeds such as slurries arising from dredging operations as taught in col. 7 lines 5-16. It would have been obvious to one skilled in the art having the references before him, to modify the method of McLaughlin et al. by utilizing the recited oxidation process in view of the teachings of Allen et al., to aid in removing metals and organic material from the dredged material.

Applicants argue that nowhere in the Allen et al. disclosure is there a reference to dredged material. It is submitted that slurries arising from operations such as dredging disclosed in Allen et al. are considered patentably indistinguishable from the dredged material recited in the instant claims.

Applicants argue that McLaughlin et al. and Allen et al. are non-analogous art, because McLaughlin et al. pertains to dredged sediment and Allen et al. pertains to treating wastewater. It is submitted that the teachings of McLaughlin et al. and Allen et al. are both drawn to the analogous art of liquid purification and separation, and appear to include the treatment of dredged material as recited in the instant claims.

Applicants allege that the combination of the McLaughlin et al. and Allen et al. would change the principle of operation of McLaughlin et al., which is designed to eliminate any extraneous treatment of contaminants. It is submitted the oxidation process of Allen et al. does not appear to be excluded from the method of McLaughlin. Furthermore, applicants have not supplied sufficient factual evidence to support the above allegation.

Applicant's citations of the MPEP and case law have been carefully considered but are not deemed pertinent due to the different circumstances involved in the instant application.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter A. Hruskoci whose telephone number is (571) 272-1160. The examiner can normally be reached on Monday through Friday from 6:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

6/11/06


Peter A. Hruskoci
Primary Examiner
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